

have no superior, and who hold the supremacy, the highest authority at discretion and without responsibility. In England the monarch alone wears 'the golden yoke of sovereignty.' All discretionary and irresponsible power belongs to him only; except in so far as it has been expressly chartered out by him to the parliament or the judiciary. (*k*) When the king and the parliament, however, unite, they are indeed clothed with a *sovereignty* which is, to the extent of all human power within the range of their jurisdiction, altogether omnipotent. Yet it has been held in England, as well as in this country, that if a legislative enactment, owing to some oversight or mistake of its makers, directs that to be done which is palpably absurd, unnatural, unjust or impracticable; as that a party should sit as judge in his own cause; or that a penalty should be imposed upon those who should *not* propagate slander, instead of upon those who should do so; (*l*) or that those should be punished who should pass as true a forged note issued by a bank, instead of those who should pass a forged note purporting to be a note issued by a bank; (*m*) apart from any constitutional restriction, must be regarded as absolutely void; on the ground of its being impracticable innocently to execute it; because of its obscurity, absurdity, repugnance or injustice. (*n*)

But the government of this republic has been clothed with no such sovereign power, or sovereignty as that of England, either altogether, or in any of its departments. Taken collectively, or in any of its several parts, it is most truly and strictly made up of responsible and delegated power; it is not, in any sense, sovereign, or a sovereignty. For, wherever the law expresses its distrust of abuse of power, it always vests a superior coercive authority in some other hand to correct it; the very notion of which destroys the idea of *sovereignty*. (*o*) Our's is a government assumed *under* the authority of the people; it originated from the people, is founded in compact only, and instituted solely for the good of the whole; and all persons invested with the legislative or executive powers of government are the trustees of the public, and as such

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(*k*) Bac. Abr. tit. Prerogative, 487; Hallam's Mid. Ages, ch. 8, pt. 3, p. 183.—

(*l*) The Lord Cromwell's case, 4 Co. 12.—(*m*) The United States v. Cantril, 4 Cran. 167.—(*n*) The Lord Cromwell's case, 4 Co. 13; Dr. Bonham's case, 8 Co. 236; Dr. Foster's case, 11 Co. 63; Day v. Savage, Hob. 87; The City of London v. Wood, 12 Mad. 687; Weale v. West Middlesex Water Comp. 1 Jac and Wel. 371; Dwarries' Statutes, 643; Montesq. Spirit Laws, b. 26, ch. 3.—(*o*) 1 Blac. Com. 244.